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FISCAL IMPACT STATEMENT

LS 7034

BILL NUMBER: HB 1188

NOTE PREPARED: Apr 25, 2013

BILL AMENDED: Apr 24, 2013

SUBJECT: Precious Metal and Rental Purchase Agreements.

FIRST AUTHOR: Rep. Dermody

FIRST SPONSOR: Sen. Charbonneau

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Regulation of Precious Metal Dealers Buying and Reselling Jewelry-* The bill regulates precious metal dealers who engage in the business of purchasing: (1) used jewelry; and (2) other used articles of personal property; that are made of gold, silver, or platinum and were previously purchased at retail, acquired by gift, or obtained in some other fashion by a consumer for the purpose of reselling the precious metal in any form. The bill provides that, for purposes of the law concerning precious metal dealers, precious metal does not include certain coins, ingots, or industrial residue or byproducts.

Fixed Premises- The bill provides that a precious metal dealer may engage in the business of purchasing or reselling precious metal in Indiana only at a fixed premises: (1) owned; or (2) leased for a term of at least 12 months; by the precious metal dealer.

Annual Registration- The bill requires a precious metal dealer to register annually with the Secretary of State (SOS) and certain local law enforcement agencies before the precious metal dealer may engage in business in Indiana. The bill provides that registration fees are to be deposited into the Electronic and Enhanced Access Fund.

Other Requirements- The bill requires a precious metal dealer to: (1) verify the identity of a person from whom precious metal is purchased by use of a government issued photographic identification; (2) take and retain a photograph of precious metal purchased by the dealer; (3) include certain information about a seller of precious metal on the bill of sale for the purchase of the precious metal; (4) report a description of all precious metal purchased each day to the appropriate local law enforcement agency; and (5) hold precious metal for at least 10 calendar days after the date the precious metal is purchased. It provides that during the 10-day period the

precious metal dealer: (1) may not change the form of the precious metal; and (2) must allow a law enforcement officer to inspect the precious metal.

Exemptions- The bill specifies that the law concerning: (1) precious metal dealers does not apply to: (1) licensed pawnbrokers; (2) valuable metal dealers, (3) retail jewelers remitting at least \$10,000 in gross retail tax in the immediately preceding year; or (4) the purchase or resale of a mint issued coin by a person whose primary business is buying, selling, and trading mint issued coins. The bill provides that the law concerning valuable metal dealers does not apply to the purchase or resale of: (1) precious metal regulated under the precious metal dealers law; or (2) used jewelry regulated under the jewelers law.

Lessors & Rental Purchase Agreements- The bill allows a lessor, in connection with a rental purchase agreement, to contract for and receive a fee for rental payments made by telephone, if certain conditions are met. The bill also allows a lessee who fails to make timely rental payments to reinstate the original rental purchase agreement without losing any rights or options previously acquired under the rental purchase agreement if: (1) after failing to make a timely rental payment, the lessee surrenders the property to the lessor not later than seven days after the date the lessor requests the property be surrendered; and (2) not more than 120 days elapse after the date the lessee surrenders the property. (Current law states that the lessee has to surrender the property promptly and that not more than 60 days must elapse after the date the lessee surrenders the property.)

Retention of Precious Metals- Provides that if a pawnbroker purchases precious metal from a seller, the pawnbroker must retain the precious metal for at least 10 calendar days.

Effective Date: July 1, 2013, January 1, 2014.

Explanation of State Expenditures: *Regulation of Precious Metal Dealers Buying and Reselling Jewelry-* The Secretary of State would be required to regulate precious metal dealers. The SOS would have the option of adopting rules to govern the regulation of the jewelry sales. [The SOS, as of April 15, 2013, had 22 vacant positions with minimum salary worth approximately \$311,000.] The bill's requirements represent an additional workload and expenditure on the agency outside of the agency's routine administrative functions. The additional funds and resources required could be supplied through existing staff and resources currently being used in another program, or with new appropriations (based on fee collections).

Explanation of State Revenues: *Annual Registration-* The bill would allow the SOS to collect an annual registration fee of \$100 from each precious metal dealer submitting a registration. Fees would be deposited in the state Electronic and Enhanced Access Fund (EEAF). It is unknown how many jewelry stores remitting less than \$10,000 in Sales Tax or precious metal dealers exist in Indiana. Therefore, the amount of revenue this provision may generate is indeterminable.

Additional Information- The EEAF is administered by the Secretary of State's office. The EEAF had total assets of \$0.97 M at the close of FY 2012.

Penalty Provisions- Violations of provisions, as added by the bill, would constitute a Class A misdemeanor. (Current law states that any violation of the used jewelry law and pawnbroker statute (with respect to pledges) is a Class A misdemeanor.) If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is

\$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit or superior court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: *Annual Registration-* Local law enforcement agencies would process and file annual registrations from precious metal dealers. The revenue from the annual registration fees would likely cover the expense to run the local registration programs.

Penalty Provision: A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Annual Registration-* Precious metal dealers would submit an annual registration fee to local law enforcement agencies for each permanent place of business they operate in the state. The bill would set the initial fee at \$50. An additional \$50 fee would be submitted for registration of all the permanent places of business of the precious metal dealer within the law enforcement jurisdiction.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: Secretary of State.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: State Agency Vacancy Report, April 15, 2013; Auditor's Data Report 6/30/2012.

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